STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NEW ENGLAND GAS COMPANY'S :
GAS COST RECOVERY CHARGE : DOCKET NO. 3436

REPORT AND ORDER

I. NEGas' April 30, 2004 Filing

On April 30, 2004, New England Gas Company ("NEGas"), a division of Southern Union, proposed an increase in NEGas' Gas Cost Recovery ("GCR") factors for effect June 1, 2004. Specifically, NEGas proposed to increase its GCR factors on a per therm basis to: $0.8656 for residential and small commercial and industrial ("C&I") customers; $0.8561 for medium C&I customers; $0.8575 for large low load factor customers; $0.8313 for large high load factor customers; $0.8667 for extra large low load factor customers; and $0.8213 for extra large high load factor customers. For a typical NEGas residential heating customer of the former Providence Gas Company ("ProvGas"), this would result in a 4.8 percent increase, or $11, for the period of June through October. The Company also filed to increase the Commodity Charge of its Natural Gas Vehicle Rate to $0.6281 per therm. This rate adjustment recovers the same commodity cost of gas from the Natural Gas Vehicle Rate as is recovered from firm ratepayers.

In support of its filing, NEGas submitted the pre-filed testimony of Michael Harn, Pricing Analyst for NEGas, and Gary Beland, Director of Gas Supply for NEGas. Mr. Harn indicated that NYMEX prices as of April 19, 2004 were approximately $1.011 per dekatherm ("dth") higher than the NYMEX prices of October 27, 2003 used to set NEGas' non-locked gas purchases for the current GCR period. Mr. Harn explained that

44 percent of NEGas' gas summer purchases were locked in at an average rate of $5.121 per dth, but that 56 percent of summer gas purchase requirements were not locked. Therefore, he noted that variable gas costs are projected to be $3,050,673 greater than forecast due to higher than projected gas prices. As a result, NEGas was proposing to amend only the Supply Variable component of the current GCR factors so that the increment of $3 million due to variable gas costs is collected from customers from June 2004 through October 2004. In addition, Mr. Harn explained without a change in the current GCR factors, the projected deferred gas cost balance as of October 31, 2004 would be $13.9 million based on April 19, 2004 NYMEX prices. However, if the proposed GCR factors were adopted the projected deferred gas cost balance as of October 31, 2004 would be $10.9 million. Lastly, Mr. Harn noted that the proposed GCR factor would result in an increase of 4.8 percent or $11 from June through October 2004 for the average residential heating customer.[1]

In his pre-filed testimony, Mr. Beland noted that actual prices for November through April were $0.46 per dth higher than the average NYMEX prices projected in current GCR rates and that future prices for May through October are on average $1.01 higher than the NYMEX prices projected in current GCR rates. However, Mr. Beland explained that the Gas Purchasing Incentive Plan ("GPIP") has largely mitigated the impact of higher gas prices. He noted 73 percent of normal winter gas supply was available at a fixed price either because the price was locked in or because it was already in storage. However, Mr. Beland noted that the cost of incremental supplies to meet

[1] NEGas Ex. 04-1 (Harn's testimony), pp. 3-6.

requirements above the locked quantities have been at higher than originally projected. As a result, a GCR increase was needed.[2]

II. Division

On May 17, 2004, the Division of Public Utilities and Carriers ("Division") filed a memorandum by its consultant Bruce Oliver. Mr. Oliver indicated that the current summer 2004 NYMEX prices are 22 percent higher than the NYMEX prices in the current GCR rates. However, Mr. Oliver noted that NEGas has locked pricing on 63.6 percent of its summer 2004 gas purchase requirement at $5.282 per dth. He asserted that this is "a clear example of the benefits of the Gas Purchasing Program the Commission has adopted". Mr. Oliver stated that NYMEX natural gas future prices on May 14, 2004 for June through October 2004 were 7.31 percent above the NEGas GCR filing of April 30, 2004. He suggested that the unexpectedly high early summer air conditioning requirements were increasing natural gas use for electric generation. However, he indicated that these higher NYMEX prices would increase the projected undercollection by an estimated $766,338 over the summer months. In conclusion, Mr. Oliver recommended NEGas' proposed GCR rates be adopted so as to have GCR rates more closely approximate NEGas' anticipated costs for summer gas supply and to mitigate the magnitude of further increases in NEGas' GCR rates.[3]

III. Hearing

Following published notice, a public hearing was conducted on May 18, 2004 at the Commission's offices at 89 Jefferson Boulevard, Warwick, Rhode Island. The following appearances were entered:

[2] NEGas Ex. 04-2 (Beland's testimony), pp. 2-3.
[3] Div. Ex. 04-1 (Oliver's memorandum), pp. 2-3.

FOR NEGAS:	Cheryl Kimball, Esq.
FOR DIVISION:	Paul Roberti, Esq. Assistant Attorney General
FOR COMMISSION:	Steven Frias, Esq. Executive Counsel

Members of the public including members of the General Assembly, expressed their opposition to the GCR increase, their support for a lower down payment requirement to resume receiving gas service and support of a longer period to pay unpaid gas bills. NEGas presented Mr. Harn and Mr. Beland as their witnesses. Mr. Harn indicated that the proposed GCR filing attempts to reflect current natural gas prices. Because natural gas prices have increased since the filing, the projected undercollection will be $12.4 million if the proposed GCR increase is approved.[4] NEGas' witnesses concurred that ratepayers value rate stability. Mr. Beland noted that NEGas' GCR rates during the winter were below utilities' GCR rates in Massachusetts, in part because of NEGas' Gas Purchasing Incentive Program. He concurred that approximately $10 million of the projected undercollection was the result of January 2004, which was one of the coldest months in a half century.[5] Mr. Beland noted that residential heating consumption is relatively inelastic. Counsel for the Commission noted that R.I.G.L. Section 39-3-11 requires 30 days notice and a public hearing for GCR increases. Counsel for the Division concurred.[6]

COMMISSION FINDINGS

The issue before the Commission is whether to approve new GCR rates in order to prevent the projected gas cost undercollection from increasing and to better reflect

[4] Tr. 5/18/04, pp. 74, 77.
[5] Id., pp. 78-82.
[6] Id., pp. 96-97.

current gas costs. The prime objective of the Commission for gas ratemaking is rate stability.[7] For NEGas' distribution rates, this principle is reflected by the three year rate freeze imposed by the Commission in the NEGas Merger Rate Settlement.[8] As for wholesale gas rates, the GCR, this principle is reflected by the GPIP imposed by the Commission.[9] The GPIP led to NEGas purchasing 73 percent of its normal winter gas supply at a fixed price and, as of May 2004, NEGas had 64 percent of its normal summer gas supply locked in at a fixed price. As previously emphasized by the Commission, the long-term trend is for higher wholesale natural gas prices.[10] As a result, locking in prices for gas supply months ahead of time, in a rising price market, leads to savings in wholesale gas costs for ratepayers and mitigates the shock of rapidly rising rates. These results speak to the success of the Commission's approach to gas procurement. Due to the GPIP, NEGas' ratepayers have saved approximately $4,621,371 from November 1, 2003 to October 31, 2004.[11] In addition, since November 1999, in four of the last five winters, NEGas/ProvGas' GCR rates have been below the GCR rates of at least two of three major Massachusetts gas utilities.

Ideally, NEGas' GCR rates would remain static or increase at no more than the rate of inflation. Unfortunately, wholesale natural gas prices are increasing at a rate far in excess of the rate of inflation. As a result, the Commission must periodically raise NEGas' GCR rates. Certain members of the public have criticized the frequency with which the Commission approves NEGas' rate increases. First, the Commission must note that from December 16, 2000 to July 1, 2002, GCR rates did not increase and in fact,

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[7] See e.g. Order Nos. 17606, 17444, and 16745.
[8] Order No. 17381.
[9] Order No. 17444.
[10] Order No. 17606.
[11] PUC Record Req. 1-01 6/2/04.

were reduced twice.[12] Second, in 2002 and 2003, the Commission not only rejected NEGas' proposed distribution rate increases but imposed rate decreases.[13] Third, since July 1, 2002, this proposed GCR increase would constitute Rhode Island's third GCR increase while during this same time period Massachusetts' three major gas utilities have had approximately five increases of which two occurred during the coldest months of January and February.

The Commission raises GCR rates with grave reluctance. However, unreasonable delay in raising GCR rates to eliminate a gas cost undercollection so as to keep pace with current gas costs causes more harm to ratepayers in the long term. The larger the gas cost undercollection is allowed to grow, the greater the risk of rate shock grows. The Commission is keenly aware of ratepayers' desire for price stability and reasonable cost as to NEGas' gas rates. A local gas utility is not and should not be a gas station with fluctuating prices. First, there is only one choice for residential ratepayers for natural gas service while there are numerous gas stations from which motor vehicle drivers may choose. Second, demand for residential heating is very inelastic, meaning that consumption is not sensitive to price changes. There is little that residential heating ratepayers can do to reduce their consumption in the cold of winter, aside from bundling up or closing selected rooms. In contrast, timely price signals in motor vehicle transportation can lead people to reduce the use of their own automobiles, engage in car pooling or to use public transportation.

When a gas cost undercollection is large enough to result in a 3 percent increase for the typical NEGas/ProvGas residential heating customer then this Commission must

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[12] Order Nos. 17444 and 16909.
[13] Order Nos. 17524 and 17381.

become concerned. Once, the projected end of period gas undercollection is large enough to result in a 5 percent increase on the typical NEGas/ProvGas residential heating customers bill, the Commission may need to take action.[14] As the Commission has previously noted, NEGas' pre-merger predecessors routinely had a combined gas cost undercollection of approximately $14 million. Once the projected end-of-period gas cost undercollection reaches or exceeds this level, the Commission becomes concerned.

NEGas estimated that the projected gas cost undercollection would be $13.9 million by October 31, 2004. Approval of NEGas' proposed 4.8 percent increase in GCR rates would decrease this projected gas cost undercollection to approximately $12.4 million.[15] In addition, wholesale gas prices have continued to increase, even after NEGas' filing of April 30, 2004. This rate increase will not constitute rate shock because it is approximately 5 percent, will be effective approximately six months after the last increase, and will not go into effect during the peak of winter heating season when ratepayers' bills are at their highest.

The Commission has explored and pursued every alternative to raising GCR rates for all ratepayers. As noted in previous orders, the Commission is prohibited by federal law from regulating the price of interstate natural gas and that the Commission's GPIP has protected residential heating customers from greater rate increases especially during extreme cold weather of the winter. In the area of distribution rates, where NEGas earns its rate of return and the Commission has full regulatory authority, these rates for

[14] This is a very basic approach. There are, in fact, a multitude of factors that should be considered, such as: estimated weather normalization funds, potential earning sharing, short-term debt rates, whether wholesale gas price are rising or declining, the frequency and magnitude of recent rate increases and weather conditions.

[15] At the hearing, NEGas updated its projected gas cost undercollection utilizing more current NYMEX prices, which increased the projected gas cost undercollection from $10.9 million to $12.5 million. This gas cost undercollection is primarily the result of a record breaking colder than normal January 2004.

residential heating customers have decreased from September 30, 2000 to June 1, 2004 from $529 per year to $450 per year or approximately a 15 percent decrease in nearly four years.

Pursuant to its regulatory authority, the Commission has been vigorous in maintaining or lowering natural gas utility rates to the extent permitted by law. The Commission welcomes any legal proposal that would further stabilize gas rates for all ratepayers. The proposals made by the activitists who make public comment do not lower gas rates for all ratepayers, but in actuality, raise gas rates for nearly all ratepayers and for the benefit of only a few ratepayers. First, there is the proposed debt forgiveness plan applicable only to low-income ratepayers. This plan would raise rates at an undetermined amount for nearly all ratepayers. This plan was voluntarily withdrawn by the George Wiley Center after hearing when it became clear that it was unclear how much the plan would cost and that other ratepayers would have to pay for these costs. The cost of this plan is indeterminate, highly speculative, and could become very expensive. For example, as of April 15, 2004, the end of the winter moratorium, NEGas has delinquent accounts of more than 30 days past due for active and inactive residential customers totaling $37,918,269.[16]

The second proposal is to give delinquent ratepayers more time than twelve months to pay their back balances and a smaller down payment to reinstate service. This is also flawed. It should be noted that the Termination Rules were modified in 2002 and all delinquent ratepayers, regardless of prior payment history or size of balances were allowed to enter into payment arrangements with no down payment. The size of these delinquent balances may be due in part to certain delinquent ratepayers treating the

[16] Docket No. 1725 5/14/04 Response to PUC Request 1-3.

moratorium as a moratorium on making bill payments. A longer plan period will only exacerbate the current problem. For instance, as of April 15, 2004, there are 6,906 active residential accounts, protected and standard, with a balance of more than $1,000. The total of these accounts is $10,687,642. To have a balance of more than $1,000 implies that the ratepayer has probably not made a payment for nearly a year since the typical NEGas/Prov residential heating customer's annual bill was $1,277 as of November 1, 2003.

If these ratepayers do not make payments during the year, there is little reasonable expectation that these customers will make payments if given two years. In the end, some of these accounts become inactive and are written-off as bad debts. As of April 15, 2004 inactive residential accounts totaled $8,590,412 of which $5,119,809 were from 2,791 accounts with balances of more than $1,000. As discussed in a prior order, these bad debts are in essence passed on to other ratepayers who pay their bills through a 2.1 percent factor built into rates. The larger bad debt becomes, the more likely this factor will need to be increased in a future distribution rate case and the more likely ratepayers' portion of earnings sharing will be reduced in the short term.

The third proposal is for the Division and/or Commission to relax the Termination Rules so that the down payment requirements for payment plans under the Termination Rules are reduced. The Commission and, presumably the Division, will utilize reasonable discretion in applying the Termination Rules. However, the Termination Rules should be strictly construed and applied to those delinquent ratepayers who do not make a good faith effort to pay their bills. For example, from April 16 to April 30, 2004, there were 1,026 terminations for non-payment. The average customer balance with these terminations was $3,222. The typical residential heating ratepayer who is making a good faith effort to pay his or her bill would probably not allow the balance to reach $3,222.[17]

The Commission's statutory purpose is to set cost-based utility rates. It is not to redistribute wealth through utility rates. The redistribution of wealth is an objective that the elected branches of our government can pursue at their option, but it is not a goal that appointed government officials should pursue.

The Commission is aware that certain advocates of low-income individuals argue that utility bills should be based on an individual's ability to pay instead of the cost of service. However, these advocates should know that the Commission is prohibited from setting rates on the ability to pay of certain ratepayers.[18] Rates are cost-based, not based on a ratepayer's income. Individuals in need of welfare assistance to pay their energy bills should turn to their federal or state elected officials to obtain assistance from taxpayer-funded programs such as LIHEAP.

The Commission currently allows for approximately $1.8 million in gas rates to directly assist low income households. Also, the Commission has very liberal and generous Termination Rules. For instance, the Commission has the second longest winter moratorium in the nation, which extends from November 1st to April 15th. The Commission has expressed concern that the winter moratorium may cause more harm than good. The winter moratorium is not a moratorium on paying bills. Payment plans are not designed to be a plan not to make payments. Failure to pay must have consequences for these delinquents or else all other bill paying customers, including

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[17] Docket No. 1725 Response to PUC Data Req. 1-1 of 4/15/04.
[18] Narragansett Electric v. Harsch 117 R.I. 395, 429 (1977).

employers trying to compete in the marketplace, suffer the consequences of higher rates. Raising rates to pay the bills of those who will not pay will not solve the problem in the long-term but will merely exacerbate the burden on bill paying ratepayers.

Accordingly, it is

(17970) ORDERED:

1. The Gas Cost Recovery factors filed by NEGas on April 30, 2004, set forth on a per therm basis, of $0.8656 for residential and small C&I customers, $0.8561 for medium C&I customers, $0.8575 for large low load factor customers, $0.8313 for large high load factor customers, $0.8667 for extra large low load factor customers, and $0.8213 for extra large high load factor customers are approved for effect June 1, 2004.

2. The Natural Gas Vehicle Rate filed by NEGas on April 30, 2004 of $0.6281 per therm, is approved for effect June 1, 2004.

3. NEGas shall comply with all other findings and instructions contained in this Report and Order.

EFFECTIVE IN WARWICK, RHODE ISLAND, ON JUNE 1, 2004, PURSUANT TO AN OPEN MEETING DECISION ON MAY 27, 2004. WRITTEN ORDER ISSUED AUGUST 20, 2004.

PUBLIC UTILITIES COMMISSION

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Elia Germani, Chairman

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Kate F. Racine, Commissioner

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Robert B. Holbrook, Commissioner